

ESTTA Tracking number: **ESTTA554715**Filing date: **08/19/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Clogau Gold of Wales Ltd		
Entity	limited company	Citizenship	United Kingdom
Address	Number Five, Kinmel Park Abergele Road, Bodelwyddan Rhyl, Wales, LL18 5TX UNITED KINGDOM		

Attorney information	William J. Seiter Seiter Legal Studio 2500 Broadway, Bldg F, Suite F-125 Santa Monica, CA 90404 UNITED STATES williamjseiter@seiterlegalstudio.com
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**Registration Subject to Cancellation**

Registration No	3753246	Registration date	02/23/2010
Registrant	Richline Group, Inc. 115 South MacQuesten Parkway Mount Vernon, NY 10550 UNITED STATES		

**Goods/Services Subject to Cancellation**Class 014. First Use: 2009/06/01 First Use In Commerce: 2009/06/01  
All goods and services in the class are cancelled, namely: Gemstones; Jewelry**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	79121230	Application Date	08/08/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TREE OF LIFE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: Articles made of precious metal or coated therewith; jewellery; trinkets; watches		

	and clocks; timepieces; key rings and key fobs made of precious metal or coated therewith; fitted jewellery boxes; jewellery boxes of precious metal; tie pins and cufflinks of precious metal
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Attachments	Petition to Cancel (US TM Reg No 3753246).pdf(122114 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/wjs/
Name	William J. Seiter
Date	08/19/2013

In the Matter of Trademark  
Registration No.: 3753246  
For the mark: TREE OF LIFE  
Date registered: February 23, 2010

Cancellation No.

## PETITION TO CANCEL

Clogau Gold of Wales Ltd  
Number Five, Kinnel Park  
Abergele Road, Bodelwyddan  
Rhyl, Wales LL18 5TX  
United Kingdom

Richline Group, Inc.  
115 South MacQuesten Parkway  
Mount Vernon, New York 10550

The grounds for the cancellation are as follows:

1. With an effective filing date of August 8, 2012, Petitioner filed U.S. Trademark Application Serial No. 79121230 for the mark TREE OF LIFE in International Class 14 for “Articles made of precious metal or coated therewith; jewellery; trinkets; watches and clocks; timepieces; key rings and key fobs made of precious metal or coated therewith; fitted jewellery boxes; jewellery boxes of precious metal; tie pins and cufflinks of precious metal” based on Section 66(a) of the Trademark Act, 15 U.S.C. Section 1141f(a), requesting extension of protection to the United States of International Registration No. 1137847.

2. Petitioner has used the mark TREE OF LIFE for jewelry and articles made of precious metals since at least as early as April 17, 1999, and has used the mark for such goods in United States commerce since at least as early as April 17, 1999. As a result, Petitioner has acquired substantial common law rights in the mark TREE OF LIFE for such goods within the United States.

3. On February 25, 2009, Registrant filed Application Serial No. 77678386 for the mark “TREE OF LIFE” in International Class 14 for “Gemstones; Jewelry” based on use in commerce under Section 1(a) of the Trademark Act, 15 U.S.C. Section 1051(a), declaring that the mark was first used at least as early as June 1, 2009, and first used in United States commerce at least as early as June 1, 2009, and that the mark was in such use on the filing date of the application. Said application registered for the aforementioned goods under U.S. Trademark Registration No. 3753246 on February 23, 2010.

4. Upon information and belief, Petitioner alleges that Registrant had made no bona fide use of the aforementioned mark in U.S. commerce on or in connection with any of the Class 14 goods applied for under Application Serial No. 77678386 before June 1, 2009, Registrant’s claimed date of first use and claimed date of first use in U.S. commerce.

5. Upon information and belief, Petitioner alleges that Registrant has made no bona fide use of the aforementioned mark in U.S. commerce at any time on or in connection with any of the Class 14 goods applied for under Application Serial No. 77678386 on or before April 17, 1999, Petitioner's date of first use in U.S. commerce of its mark on or in connection with Petitioner's Class 14 goods applied for under Application Serial No. 79121230.

6. The mark that Registrant has registered under U.S. Registration No. 3753246 is identical in appearance, sound and commercial impression to Petitioner's mark, and could be used in connection with goods identical to and/or closely related to the goods offered by Petitioner and in connection with which Petitioner uses its mark. Based on the identical nature of the two marks and the sameness, similarity and relatedness of the parties' respective goods, the public is likely to associate the goods of Registrant under the mark "TREE OF LIFE" with Petitioner or with Petitioner's goods, or to believe that Registrant's goods are sponsored, endorsed or licensed by Petitioner, or that there exists some relationship between Registrant and Petitioner.

7. For the above reasons, any use of the mark "TREE OF LIFE" by Registrant for goods in International Class 14 is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that the services offered under the mark by Registrant emanate from or are otherwise sponsored or endorsed by Petitioner, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

8. Petitioner will be irreparably harmed and financially damaged by the registration of Registrant's mark, because although Petitioner is entitled to priority by virtue of its date of first use in U.S. commerce of April 17, 1999, Registrant's mark has been cited against Petitioner's pending Application Serial No. 79121230 as grounds for refusal in an Office Action issued December 19, 2012. Therefore, Registrant's mark should be cancelled.

**Request For Relief**

9. Petitioner is the owner of U.S. Trademark Application Serial No. 79121230, filed August 8, 2012, for the mark TREE OF LIFE in International Class 14 for “Articles made of precious metal or coated therewith; jewellery; trinkets; watches and clocks; timepieces; key rings and key fobs made of precious metal or coated therewith; fitted jewellery boxes; jewellery boxes of precious metal; tie pins and cufflinks of precious metal,” and is using such mark in U.S. commerce.

10. Petitioner will be irreparably harmed and financially damaged by Registrant’s Trademark Registration No. 3753246, because Registrant’s mark has been cited against Petitioner’s pending Application Serial No. 79121230, as a ground for refusal, under an Office Action dated December 19, 2012.

11. Therefore, the registration should be cancelled as to all goods listed therein.

12. For the foregoing reasons, Petitioner requests cancellation of Trademark Registration No. 3753246.

DATED: August 19, 2013

Respectfully submitted,  
SEITER LEGAL STUDIO

By: /s/ William J. Seiter  
William J. Seiter  
Attorneys for Petitioner  
220 26<sup>th</sup> Street, Suite 202  
Santa Monica, CA 90402  
Phone: (310) 395-6100

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Petitioner's Petition to Cancel has been forwarded via First Class Mail, postage prepaid, to Registrant to its address of record, as follows:

Richline Group, Inc.  
115 South MacQuesten Parkway  
Mount Vernon, New York 10550

on this 19<sup>th</sup> day of August, 2013.

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/s/

William J. Seiter